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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,849	06/15/2001	David D. Oakey	I4060/260090	1929

23370. 7590 11/04/2003

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EXAMINER	
DORSEY, DENNIS	

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/882,849	OAKEY ET AL.	
	Examiner	Art Unit	
	Dennis L Dorsey	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36 and 41-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36 and 41-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 11, 23, 25-26, 28-30, 33-34, 48, and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis Patent Number 4,336,289.

Davis '289 teaches all the limitations of the above claims including a woven pile structure carpet tile modular (10), moving the shears or first and second treating heads (25) with conveyor (26) removing a peripheral portion (16) along a plurality of edges, conveying in a first direction then in a direction orthogonal to the first direction (see Figure 1), lower backing surface (13), beveled removed portions (see Figure 13), compressing and consolidating strip (30) to form an embossed portion (see Figure 10).

The MPEP 2113 clearly states that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. Thus in claim 30, the added limitation of created by using an energy source is met by the reference

3. Claims 7-10, 12, 37-39, 42, and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis '289.

Davis teaches all the limitations of the above claims including a shear (40) and a conveyor (38) for moving the module (10) past the shear, and floor covering or module (10) with removed peripheral portions (16) with beveled edges (see Figure 13).

The preamble claims an apparatus, thus any limitations to the method of using carry little to no patentable weight. For example, the limitation of moving the module relative to the shear is inherent since all structural limitations are met.

4. Claims 14-20, 21, 22, 37, 40, and 41, 43-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Moen Patent Number 3,994,256.

Moen '256 teaches all the limitations of the above claims including an apparatus with a first conveyor (13), second conveyor (14) conveying the module in a linear movement, a first pair (21) of hot air glue gun (25), a second pair (23) of hot air glue gun (25), and both pairs of treating heads (25) are adjustable (column 3, lines 55-61) and pivots 90 degrees to module direction.

The preamble claims an apparatus, thus any limitations to the method of using carry little to no patentable weight. For example, the limitation of moving the module relative to the shear is inherent since all structural limitations are met.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 24, 27, 31, 32, 35, 36, and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '289 in view of Kyle Patent Number 4,629,858.

Davis '289 teachers all the limitations of the claims except the specific use of a heat glue gun or laser. Kyle teaches the use of a laser for engraving designs onto carpet or a hot glue gun to melt away textile surface. It would have been obvious for one skilled in the art to provide a laser or hot glue gun for the removal of the of a portion of a peripheral edge of the Davis invention since it is held to be within the skill of a worker in the art to select of among the widely available techniques for removal of a section of carpet for designs purposes as a matter of design choice since one technique is functionally equivalent to the other techniques.

7. Claims 11, 13, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '289.

Davis teaches all the limitations of the above claims except the use of at least two shears and abutting flooring modules. Davis teaches the use of a shear (25) and teaches that the removed area may contain several widths according to the template (column 3, lines 64—68). It would have been obvious for one skilled in the art at the time the invention was made to provide at least two shears or more for treating a module since it is held to be within the skill of a worker in the art to select a shear or shears based on the size of the portions to be removed as a matter of obvious design choice. It would have been obvious for one skilled in the art to provide abutting flooring modules to cover a greater area of the room since it is held to be within the skill of a worker in the art to provide additional modules.

Response to Arguments

8. Applicant's arguments filed July 28, 2003 have been fully considered but they are not persuasive. The amendments to the claims as set forth by the applicant do not read over the current rejections. In claim 1, the added language of the plurality of edges provides no addition limitation to the method step of "moving". In claims 2 7, and 11, the word "mechanical" as defined by Webster's Collegiate Dictionary means "of or relating to manual operations", the Examiner argues that conveyor (26) meets such limitation. In claim 48 the method step of transferring heat is met by the reference. The Applicant is reminded that the claims should particularly point out and distinctly claim the subject matter which applicant regards as the invention. Thus the arguments set forth by the Application are not supported by the claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD

Carl D. Friedman
Supervisory Patent Examiner
Group 3600